

**THE CITY OF CHICAGO, ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS
MUNICIPAL HEARINGS DIVISION**

IN RE PROCEEDINGS CONCERNING)
GUN REGISTRATION,)

REQUESTED BY:)

David Lawson)

No. 07 GR-000122

Chicago, IL)

Registration No. D006343L)

Serial No. 3031203)
)
)

DECISION

1. I find that there is jurisdiction over the subject matter and the parties.

2. According to City Exhibit No. 4, applicant acquired the firearm through the mail on October 19, 2007 from the Civilian Marksmanship Program in Anniston, Arizona. The registration application was submitted November 30, 2007. Applicant testified the program periodically sells firearms and interested parties can bid for the right to buy them. In October 2007 applicant learned via e-mail that his request to purchase the firearm at issue in this case was granted. Applicant testified that the gun was delivered to his Chicago home the next day, October 19, 2007 and remained there for less than a week before being taken to Bloomington, Illinois. He said he could not register the firearm prior to receiving possession because he would be unable to properly list the serial number and other information on the application without possessing the firearm. He added the program required delivery to his home since that is the address on both his driver's license and firearm owner's identification card. Applicant testified that the Chicago Police gun desk told him he had 30 days to register the firearm from the date of purchase. He explained that this application was beyond that time limit due to travel.

3. Section 8-20-040 of the Municipal Code of the City of Chicago requires that all firearms in the City be registered.. Section 8-20-040 (a) states:

(a) All firearms *in the City of Chicago* shall be registered in accordance with the provisions of this chapter. It shall be the duty of a person owning or possessing a firearm to cause such firearm to be registered. No person shall, *within* the City of Chicago possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver or accept any firearm unless such person is the holder of a valid registration certificate for such firearm. No person shall, *within* the

City of Chicago, possess, harbor, have under his control, transfer, offer for sale, sell, give, deliver or accept any firearm which is unregistrable under the provisions of this chapter. (Emphasis added).

4. I find that the applicant possessed the firearm in question within the City of Chicago without first properly registering it. Applicant resides in the City of Chicago and the firearm was delivered to his home. Section 8-20-090(a) requires a firearm be registered before an applicant takes possession of the firearm. This section by its plain language is applicable to firearms *within* the City of Chicago. Further, the case of *City of Chicago v. Cotton*, 356 Ill. App. 3d1, 826 N.E. 2d 405 (1st. Dist 2005) holds that the use of the term “shall” in the Chicago Municipal Code is mandatory, not discretionary. Therefore, I find that I have no discretion in this matter and, as a result, since Applicant did not register the firearm prior to possessing it in the City of Chicago, the firearm is unregistrable.

5. Therefore, the denial of Applicant’s application for registration of this firearm is affirmed.

6. Pursuant to Section 2-14-102 of the Chicago Municipal Code, this final decision is subject to review under the Illinois Administrative Review Act.

Gregory G. Plesha

Gregory G. Plesha
Administrative Law Officer

Dated: March 8, 2008